

RE:General Docket 90-7 Region 20 Public safety Plan amendment  
request (Public Notice DA 01-1385)

The crux of my comment is this: The action of one of Region 20- 821 MHZ Public Safety Regional Plan Review Committee's (Region 20 RPRC) members, Fauquier County, Virginia (Fauquier) and Region 20 RPRC itself, if it coordinated Fauquier's application to the Federal Communications Commission (FCC) for 821 MHZ licenses in advance of FCC approval of the 821MHZ plan amendment, violates the spirit of the process of citizen comments on proposed FCC actions. The proposed action in the instant case is approval of a Regional Plan amendment.

On June 4, 2001 the FCC received a proposed plan amendment from the Region 20 RPRC. That plan amendment specified in the attached matrix (Appendix 1) the new assignment of 821 MHz channels to various jurisdictions within region 20, including Fauquier's total assignment of channels.

On June 18, 2001 the FCC opened the period for interested members of the public to comment prior to the proposed action of the FCC to approve the amendment.

Mere days prior to the opening of the comment period the FCC awarded to Fauquier on May 30, 2001 a license, WPSK364, for the same channels which are subject to assignment in the as-yet-unapproved Regional Plan.

There are instances of misrepresentation of material facts on the application of Fauquier to Region 20 RPRC for assignment and coordination of 821 MHZ channels. Fauquier applied to Region 20 on March 12, 1999 for assignment and coordination of 10 channels of 821 MHZ spectrum during Region 20 RPRC's 3d filing window. Region 20 RPRC assigned 6 channels to Fauquier County in the assignment matrix attached to the Plan amendment application to the FCC dated May 29, 2001.

An assignment to a Region 20 RPRC member of more channels than they deserve under Region 20 RPRC's published criteria based on misrepresented information in an application has negative effects. It affects the number of channels available for assignment both within the region and in adjoining regions. It also affects channels available for assignment in the future based on population growth or other legitimate factors. It has a further effect on the entire issue of spectrum availability among the competing interests vying for valuable radio spectrum.

The issue of improper assignment of channels based on misrepresentation is properly addressed in comments to you by a citizen when a region comes to the commission for approval of a plan amendment containing new channel assignments. The citizen's basic right to a proper hearing is effectively denied if a member of a regional plan review committee applies for, and obtains from the FCC a license for channels assigned in an unapproved plan amendment. All the points that a citizen might raise in a comment period are made moot when the FCC issues a license in advance of plan approval. The public comment and review period become a sham exercise.

The trust that the public and the FCC place in a Plan review Committee is violated when that Committee approves frequency coordination for license issuance in advance of plan amendment approval. It might

similarly be argued that APCO International, if it approved an application for forwarding to the FCC (in advance of approval of the plan assigning the channels) has acted without proper care. It might further be argued that the FCC has acted without proper care in approving applications for channels before the Regional Plan is approved by the Commission.

I would respectfully ask the Commission not to approve the Region 20 Plan amendment with its assignment of six channels of spectrum to Fauquier County until the application of Fauquier County for 821 MHZ channels is reviewed by Commission staff for evidence of misrepresentation of material facts.

At that time I would be pleased to tender evidence to the Commission that the County falsely claimed in its application to Region 20 RPRC that the Town of Warrenton, Virginia would be a part of the 821 MHZ radio system, thus increasing the unit count of the system by 78 units and making it a multi-jurisdictional system. The claim resulted in a larger number of channels than appropriate being assigned to the County. Before and after the County made application to Region 20, the County received official notification that the Town would not participate in a trunked 821MHZ digital radio system. Additional misrepresentations in the Application to Region 20 were made concerning the unit count for Law Enforcement and Fire/Rescue units on duty during the peak hour.

In March, 2000 a Fauquier resident sent a FOIA request to Mr. Steve Souder, then Chairman of Region 20 RPRC, to view documents relating to Fauquier's application to Region 20 RPRC for channel assignments. The request was unanswered and when the citizen attempted by telephone to arrange viewing of the documents he was turned away. Additionally, Mr. Souder told the citizen that no member of the general public had ever attended a Region 20 RPRC meeting.

I believe the FCC has given to Regional Plan Review Committees and their members a significant public responsibility in assigning spectrum. I believe there is also imposed on them a duty to be accountable to the FCC and the citizens for their actions. If citizens cannot get information from the Regional Plan Review Committees or cannot effectively make comments in a comment period established by the FCC then the public's interests are not being served.